REMARKS

Summary of Office Action

Claims 1-7 were pending. Claims 4-7 were withdrawn from consideration as drawn to non-elected inventions.

Claims 1-3 have been rejected: under 35 U.S.C. 102 (b) as anticipated by Shaw U.S. Patent No. 6,101,479 ("Shaw"); under 35 U.S.C. §101 as being abstract; and under 35 U.S.C. § 112 as being indefinite. The Examiner has also noted an informality in the Abstract.

Applicants' Reply

Applicants have amended the Abstract to correct the informality, which was kindly noted by the Examiner.

Claims 1-3 have been amended for clarity. These amendments to claims 1-3 also provide proper antecedent basis for six terms, which the Examiner has noted lacked antecedent basis. (See Office Action, Section 6). Applicants respectfully submit that amended claims 1-3 are definite and now conform to all requirements of § 112.

Applicants respectfully traverse the §§ 101 and 102(b) rejections.

§ 101 rejection

Applicants' invention relates to computer processes for monitoring, analyzing and characterizing product marketing data and information. In particular claim 1 (which is amended to bring out the use of computer and data processing arts), relates to computer information processing and analysis which yields a useful, concrete and tangible figure or merit (i.e., a postlaunch product market performance parameter). This computer-generated, tangible and concrete figure of merit can be used for, example, to plan or improve product marketing efforts. (See e.g., specification, page 1 line 17 - page 6 line 2). The claimed process meets the statutory requirements for patentability which were kindly described by the Examiner (Office Action section 2). Therefore, applicants respectfully request that the § 101 rejection be withdrawn.

§102(b) Rejection

Independent claim 1

Applicants' invention, according to claim 1, relates to a process for an analytical evaluation of a product marketing effort. In particular, claim 1 includes the steps of assembling databases of various market data — data related to a success factor in a market performance of the subject product; data on unmet market needs; and data on the proclivity of decision makers to choose the subject product over other products. Claim 1 further includes the steps of using a computer interfaced with the assembled databases to analyze or model and to project a future market share of the marketed product based on the assembled market data. Applicants respectfully submit that the cited reference — Shaw, does not show, teach or suggest all the elements of claim 1.

Unlike applicants' inventive process, Shaw is not concerned with specific product marketing or with any numerical calculation or projection of a market share of a subject product. Shaw relates to "configuring" the structure of an organization (e.g., corporate structure) to make the organization seem more appealing and responsive to customers. (See e.g., Shaw, Abstract, and FIGS. 2-11C). According to Shaw, corporate notions of profit margin, sales volume, etc. are inadequate to make the organization appealing to customers. (See e.g., Shaw, FIG. 1 and col. 5 line 55-col. 6 line 9). Shaw's organizational model is based on the well known "assumption that if an organization does an effective job of creating and keeping customers, market share will increase and greater profits will naturally follow." (See Shaw, col. 6 line 3- col 7 line 2). Shaw only refers to increased market share as a vague, unquantified, wishful or desirable goal of his customer-retention based reorganization theory. (See e.g., col. 1 lines 15-21, col. 2 lines 18-24 and lines 63-67, col. 3 lines 45-50, col. 6 lines 2-7, etc.). Shaw does not have any disclosure (explicit or inherent), which shows, teaches, or suggests, a quantification of the post launch market share of a specific product. In particular, Shaw does not show teach or suggest, using a computer to calculate a future market share of a specific product as is required by claim 1.

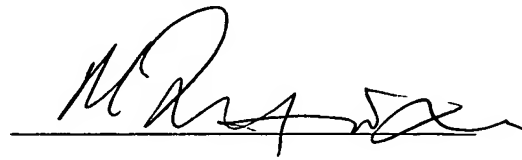Accordingly, claim 1 is patentable over Shaw for at least the foregoing reasons.

Dependent claims 2 and 3

Dependent claims 2 and 3, which depend from independent claim 1, are patentable for at least the same reasons that independent claim 1 is patentable as discussed above.

Conclusion

Applicants respectfully submit that this application is now in condition for

allowance. Reconsideration and prompt allowance of which are requested. If there are any

remaining issues to be resolved, the applicants request that the Examiner contact the undersigned

attorney for a telephone interview.

Respectfully submitted,

Manu J Tejwani
Patent Office Reg. No. 37,952

BAKER BOTTS L.L.P.
30 Rockefeller Plaza
New York, New York 10112-4498

Attorneys for Applicants

(212) 408-2614